

REMARKS

Reconsideration of this application, in view of the following remarks, is respectfully requested.

Claims 1-52 were originally presented for consideration in this application. Claims 1 and 43 were canceled by previous amendment. Accordingly, claims 2-42 and 44-52 are currently pending in this application.

The following rejections, objections, and requirements were set forth in the Office Action:

1. Claims 40 and 45-52 were objected to for having an incorrect status identifier;
2. Claims 2-4 stand rejected under 35 USC §103 as being unpatentable over VanDenberg in view of Gimlett et al.;
3. Claims 13-21, 30-36, 38 and 44 stand rejected under 35 USC §103 as being unpatentable over VanDenberg in view of Gimlett et al., and further in view of Aton; and
4. Claim 39 stands rejected under 35 USC §103 as being unpatentable over VanDenberg in view of Gimlett et al., further in view of Aton, and further in view of Bradley;

Regarding the objection to claims 40 and 45-52, the objection is respectfully traversed. The rules (37 CFR §1.121) do not appear to provide for the situation where a previously amended withdrawn claim appears in a claim listing. The rules do provide for the situation where a withdrawn claim is currently amended (see the last sentence of 37 CFR §1.121(c)(2), giving “withdrawn—currently amended” as the appropriate status

identifier). Therefore, the applicants have used a similar status identifier, “withdrawn—previously presented” for those claims in the listing above which were previously amended (in the Amendment filed April 26, 2005), but which are also currently withdrawn.

Regarding the obviousness rejections of claims 2-4, 13-21, 30-36, 38, 39 and 44, these rejections are respectfully traversed. A *prima facie* case of obviousness has not been made out for each of these claims.

Specifically, each of the claim rejections relies on a combination of the VanDenberg reference with the Gimlett reference. However, for several reasons a person skilled in the art would clearly not be motivated to make the combination of these references proposed by the examiner.

For example, VanDenberg teaches that a beam 15 of a suspension system 1 should be made of a laminated material having a modulus of elasticity significantly lower than that of the axle 19 (see col. 3, lines 58-61). The purpose of this is to allow the beam 15 to flex and absorb deflections of the axle 19, so that special bushings do not have to be used in the beam-to-frame pivot connection, and so that a pivot connection does not have to be used at the beam-to-axle connection.

Again, to accomplish these objectives VanDenberg teaches that the beam should be made of a material having a modulus of elasticity which is significantly lower than that of the axle (see col. 6, lines 9-18). VanDenberg uses a beam made of fiberglass material (see col. 5, lines 64-67) and an axle made of a material with a modulus of elasticity in the range of 28×10^6 psi to 30×10^6 psi (steel alloys typically have such moduli of elasticity).

In contrast, Gimlett teaches that a railroad axle 2 (which does not use suspension beams at all) should be made using fiberglass or similar materials (see col. 2, lines 31-33), and that in areas of high stress, higher modulus fibrous materials should be used (see col. 2, lines 33-40). Thus, VanDenberg and Gimlett teach directly away from the combination proposed by the examiner.

Specifically, VanDenberg teaches that a suspension beam should have a significantly lower modulus of elasticity as compared to the axle, whereas the combination proposed by the examiner (substituting the composite axle of Gimlett for the steel axle of VanDenberg) would result in the beam and axle having the same or very similar moduli of elasticity. Gimlett teaches that an axle/wheel assembly should be constructed so that the assembly is a rigid integral assembly (see col. 1, lines 13-14, and col. 2, lines 19-20), whereas VanDenberg teaches that an axle/beam assembly should have substantially greater flexibility, with a low modulus of elasticity in the adhesive bonding the beam to the axle (see col. 5, lines 61-64 and col. 6, lines 9-18).

Clearly, a person skilled in the art would not be motivated by the teachings of either of these references to make the combination proposed by the examiner. Instead, a person skilled in the art would be discouraged by the teachings of each of the references from making the combination proposed by the examiner.

Therefore, since a *prima facie* case of obviousness has not been made out for any of the rejected claims and, in fact, the references clearly teach away from the claimed invention, the examiner is respectfully requested to withdraw the claim rejections.

The examiner is respectfully requested to consider in this application the claims which were non-elected in response to the requirement for election of species, but which are dependent from allowable claims.

In view of the foregoing remarks, all of the claims pending in this application are now seen to be in a condition for allowance. A Notice of Allowance of claims 2-42 and 44-52 is therefore earnestly solicited.

The examiner is hereby requested to telephone the undersigned attorney of record at (972) 516-0030 if such would expedite the prosecution of the application.

Respectfully submitted,

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